



STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
STATE CONSUMER PROTECTION BOARD

**Timothy S. Carey**  
Chairman and Executive Director

**George E. Pataki**  
Governor

**Ann Kutter**  
Deputy Executive Director

November 12, 1998

Overnight Delivery  
Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W. Room 222  
Washington, D.C. 20554

Re: CC Docket No. 98-170: Truth-in Billing and Billing  
Format.

Dear Secretary Salas:

Enclosed are an original and eleven copies of the Comments of the New York State Consumer Protection Board in Docket No. 98-170. Diskettes in the format specified by the Commission are also being provided to Ms. Anita Cheng of the Common Carrier Bureau and the Commission's copy contractor.

Sincerely,

Timothy S. Carey  
Chairman and Executive Director

Enclosures  
TSC/AK/MS/DE/AFC

No. of Copies rec'd 07/11  
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FEDERAL COMMUNICATIONS COMMISSION

In The Matter Of  
Truth-in-Billing and  
Billing Format

CC Docket No. 98-170

COMMENTS OF THE NEW YORK STATE  
CONSUMER PROTECTION BOARD

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Dated: November 12, 1998  
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FEDERAL COMMUNICATIONS COMMISSION

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CC Docket No. 98-170

COMMENTS OF THE NEW YORK STATE  
CONSUMER PROTECTION BOARD

In its Notice of Proposed Rulemaking (NPRM), the Federal Communications Commission (Commission, FCC) recognized consumers' growing concerns with inaccurate, deceptive, or unclear charges and information on telephone bills. The FCC found that:

The difficulty experienced by consumers in understanding their telephone bills is not simply an inconvenience. Rather, consumers must have adequate information about the services they are receiving, and the alternatives to them, if they are to reap the benefits of a competitive market. (NPRM, at 3)<sup>1</sup>

The Commission pro-actively requested the input of all parties, but expressed a particular interest in the views of consumer advocates on its proposals to halt these practices and ensure that customers have thorough, accurate, and understandable bills. (at 6) The New York State Consumer Protection Board (NYSCPB) respectfully submits these comments and commends the Commission for seeking the specialized input of consumer

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<sup>1</sup> Unless otherwise indicated, citations in these comments are to the NPRM in this proceeding, released September 17, 1998.

advocates.

The NYSCPB -- a state agency which represents the interests of all New York consumers, especially residential consumers, small businesses and farms -- is New York State's chief consumer advocate.<sup>2</sup> The NYSCPB's mission is to represent all consumers in this challenging and ever changing economy by aggressively investigating and responding to consumer complaints, proactively educating and advocating on behalf of consumers, researching and analyzing consumer issues, and working in tandem with the business community to resolve consumer problems. We are often the sole advocate on behalf of New York's residential, small business and farm customers on telecommunications issues before the New York Public Service Commission (NYSPSC), and have participated in many FCC proceedings.

The NYSCPB wholeheartedly supports the Commission's recommendations that:

1. bills should be organized to be readable and to present important information clearly and conspicuously;
2. bills should contain full and non-misleading descriptions of all charges; and
3. bills should clearly and conspicuously disclose all information necessary for consumers to make inquiries

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<sup>2</sup> The Chairman and Executive Director of the NYSCPB is State Director of Consumer Protection. New York Executive Order, No. 45, issued November 13, 1996.

about charges on their bills. (at 71)

Information is the key to the success of competition. That maxim is especially applicable to residential consumers and small businesses, who often do not have the time or the resources to learn the "new speak" in telecommunications bills and are often frustrated in their efforts to obtain accurate information, compare new offers or challenge bills they believe are inaccurate. Indeed, we share the FCC's conclusion that:

A review of the bills we have received in conjunction with consumer complaints demonstrates that even the most sophisticated consumer would often be unable, based on the information provided in the bills, to identify the services for which the consumer is being charged or the providers of those services. (at 2, emphasis added)

In our view, however, the Commission's goals and its proposals to implement them would be best achieved in an industry increasingly deregulated if they were developed as comprehensive guidelines, rather than formal regulations. We recommend a process similar to that adopted earlier this year to address telephone service cramming, in which the FCC's leadership led to the development of successful anti-cramming guidelines, most of which were adopted by the industry. Moreover, guidelines have the

advantage of being more flexible than formal rules, can be modified rapidly to respond to previously unanticipated problems, and would complement the state's jurisdiction over intrastate services. In addition, federal guidelines would not run afoul of state authority over intrastate telephone services. We explain these points further in Section I.

In Section II, we address the Commission's specific proposals for truth-in-billing as to: 1) the application of credit card protections to non-telephone related charges; 2) bill format changes to aid detection of slamming and cramming; 3) full and non-misleading information of charges; and 4) consumer complaint and inquiry information. Overall, the NYSCPB supports those proposals.

#### I. THE FCC SHOULD ISSUE GUIDELINES ON BILL CONTENT AND FORMAT.

There is a critical need for action to revise telephone bill content and format. In many cases, telephone bills do not currently facilitate customer detection of slamming or cramming and indeed increase customer confusion. Slamming, cramming and customer confusion harm both consumers and legitimate businesses.

Telephone customers who are victims of slamming are often overcharged, provided inferior service quality, unable to use calling cards issued by their selected carrier in times of

emergency and lose additional products or services offered by their selected carrier. Slammed telephone customers expend valuable time and resources to investigate and reverse the action.

The complaints received by the NYSCPБ consistently demonstrate that victims of slamming are deeply offended that their telecommunications provider has been changed without their authorization. Consumers complain that they have been cheated, deceived and are the victims of fraud and illegal activity. Those complaints demonstrate that slamming decreases consumer confidence in increasingly competitive telecommunications markets. Consumers are also frustrated that in some cases, their telephone bills do not facilitate detection of slamming.

New York consumers who have been "crammed" have the same type of complaints. Companies that engage in cramming appear to rely heavily on consumer confusion regarding telephone bills to encourage consumers to pay for services not authorized. In addition, consumers are often frustrated in their attempts to resolve issues related to cramming because telephone bills don't always provide necessary information for identifying and contacting the appropriate company. Further, the NYSCPБ believes that an even greater number of consumers have unknowingly paid bills for merchandise that was never ordered or services never provided because of unclear bill formats or provider information.

Thus, we second the FCC's observation that the present bill content and format cause unnecessary and detrimental customer confusion. (at 3) Many consumers file complaints with the NYSCPB about charges that are identified but not explained, while others cannot determine how or to whom to complain. These problems need to be addressed.

The NYSCPB submits, however, that guidelines, rather than regulations are the appropriate remedy. Such an approach would be consistent with the Commission's continuing emphasis on deregulation and market responsibility. To address a similar matter, the FCC established voluntary guidelines this summer to help prevent cramming, after consulting with the industry. The vast majority of those guidelines were adopted by Bell Atlantic, a major provider of local telephone services in New York, and have substantially reduced the number of cramming complaints. A similar mechanism for bill content and format should be used here. If the industry does not follow those guidelines, formal FCC regulations may be required and could then be implemented.

Moreover, the NPRM notes that the FCC wishes to initiate a "dialogue" with the states on how to improve the content and format of bills and how it may "complement" state efforts. (at 6) Adoption of guidelines would help achieve that purpose. Guidelines are inherently flexible and can be revised rapidly to



address new problems as they are identified at the state level. Many of the problems addressed by the Commission also affect bills for state regulated intrastate services. With guidelines, both state and federal jurisdictions can validate, instead of inadvertently restrict, the consumer's right to clear information. Federal guidelines, combined with appropriate state action, would allow remedies to be tailored to local concerns, while permitting both jurisdictions to minimize the cost of compliance by the industry. Moreover, reliance upon guidelines would avoid any disputes over whether the FCC has appropriate authority to address the format of bills rendered by local telephone corporations, or whether such jurisdiction resides with the states.<sup>3</sup>

For all these reasons, we urge the FCC to adopt consumer truth-in-billing guidelines.

## II. THE FCC SHOULD ADOPT COMPREHENSIVE GUIDELINES TO ADDRESS SEVERAL SPECIFIC ISSUES.

The NPRM requested comment on four general issues:

- A. the application of credit card protections to non-telephone related charges on telephone bills;

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<sup>3</sup> In our view, authority to address the format and content of bills rendered by local telephone companies clearly resides with the states. Moreover, states are in the best position to rapidly respond to local consumer issues and to tailor solutions to appropriately reflect local circumstances. Accordingly, should the FCC adopt formal rules in this proceeding, it must ensure that those rules do not preempt state authority.

- B. bill format;
- C. full and non-misleading descriptions; and
- D. consumer inquiry and complaint information.

The NYSCPB supports proposals, which would permit consumers to clearly identify all charges. Our specific comments are delineated below.

#### A. Application of Credit Card Protections

The FCC found that:

[w]e have recently seen significant growth in the use of telephone bills to charge consumers for a wide variety of services, including charges unrelated to telephone service, that traditionally would have been billed either directly or through credit card bills, subject to requirements designed to protect consumers. These protections are not currently provided to consumers, however, when the service provider opts to use the telephone bill to collect these same charges. (at 8)

The NYSCPB supports the adoption of consumer protection guidelines for credit card-like charges unrelated to telephone service. The guidelines should be based on the type of protections found in the Truth in Lending Act, the cornerstone of consumer credit legislation, which set the parameters for credit card purchases. (National Consumer Law Center, Consumer Credit and Sales Legal Practice Series, Truth In Lending, 3d ed., 1995, p.31) Congress' intent in passing the Truth in Lending Act was to ensure meaningful disclosure of the costs of consumer credit so consumers could make informed choices in the marketplace. (15 U.S.C. § 1601)

The loophole whereby consumers are unprotected when those same items are billed on telecommunications bills should be closed. It circumvents the Truth in Lending Act's important statutory protections and provides an unwarranted competitive advantage over credit card competitors, weakening the competition that Congress sought to strengthen. (Id.)

We urge that guidelines equivalent to credit card-like disclosures be established for charges on telephone bills unrelated to telephone services. Those guidelines should include at least:

- (1) the clear and conspicuous disclosure of the minimum payment required, if any, the interest rate, and how it is calculated, and a statement that non-payment of these charges would not result in termination of telephone service(See Section II, C. below.); and
- (2) the notification of billing rights, including the right to stop payment on a disputed charge.<sup>4</sup>

Furthermore, we recommend that the FCC work collaboratively with providers to determine the least burdensome method of providing that information.

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<sup>4</sup> The right to stop payment should include the instance where the customer has authorized direct payment from a savings or

## B. Bill Format

The Commission proposed several options to organize telephone bills so that important information is presented clearly and conspicuously. These options include: 1) visually separating types of charges (such as charges for local and long distance services) on telephone bills, 2) listing charges according to the provider of the service, and 3) highlighting new charges and services on a customer's bill. (NPRM at 17 - 19, 22 - 24)

In our view, consumers would benefit most from a clear presentation, on the front page of the telephone bill, of all changes in providers or services since the last bill was rendered. That page -- referred to as the "status changes" page -- would clearly indicate whether any element of a customer's telephone service is provided by a different company than in the last billing cycle. Such information would allow consumers to easily detect if they have been slammed. The front page would also clearly indicate any services that appear on the customer's bill that did not appear on the previous bill. That information would facilitate detection of cramming.

The FCC's other proposals, while in many cases an improvement over current billing practices, would not provide as many clear benefits to consumers as the "status changes" page. For example,

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checking account.

providing separate sections of telephone bills for each type of telecommunications service might be confusing to consumers as distinctions between telecommunications services, such as between local and intrastate toll, become less clear or are eliminated entirely in the future. Similarly, a requirement that telephone bills contain separate sections for each type of telecommunications service may not be consistent with expected future carrier offerings of bundles of various types of telecommunications services. Accordingly, it could lead to more customer confusion, rather than less.

In addition, requirements that telephone bills contain separate sections for each provider of telecommunications services, or that they include a page summarizing the provider of each service, while helpful, would not facilitate customer detection of slamming or cramming to the extent provided by a "status changes" page. Therefore, as long as a "status changes" page is provided, we recommend that carriers be provided flexibility to determine how to organize the remainder of the telephone bill.

#### C. Full and Non-Misleading Descriptions

The FCC made several proposals intended to ensure that bills provide full and non-misleading descriptions of items billed.

Each proposal is discussed below.

The Commission has asked for comments on the NARUC and National Consumers League proposal (NARUC proposal) that each charge be accompanied by a brief, clear, plain language description of the services rendered. (at 22) We support the NARUC proposal. The full and separate identification of each item billed is baseline information accepted as standard in all legitimate billing practices. Telephone corporations should not render charges identified as "miscellaneous," or "other."

We also support the Commission's complementary proposal to extend current bill format requirements for pay-per-call and information services to all telecommunications services. (at 22) This would require identification on the telephone bill, of the charge, the type of service, the level of charge, the time and the duration if time sensitive, and the number dialed. These are minimum requirements for customers to audit their phone bill.

Similarly, the Commission's proposals to include the name of the responsible service provider, rather than any intermediary (at 23), is part of the minimum information a consumer needs to determine if slamming has occurred. It is impossible for a customer who has pre-subscribed to a facilities based carrier to detect slamming if, for example, the slamming reseller's name is not included in the bill. Simply put, you can't know you have been

slammed if you don't know that the provider has changed. Full disclosure of provider information is fundamental.

We also recommend adoption of the FCC's proposal to affirmatively inform customers that they will not be disconnected for failure to pay an unregulated charge. (at 24) The NYSPSC has already adopted the practice of requiring billing entities to make clear that local service cannot be disconnected for the failure to pay long distance or other unregulated charges. In this, New York State's practice joins other states such as Pennsylvania, Ohio, California, Oregon, and Arizona. We expect that consumers in other states will benefit greatly from such a policy.

The FCC also requested comment on whether specific language should be adopted to explain new surcharges on customer bills. (at 25 - 32) In the NYSCP's experience, many consumers are confused by current explanations on telephone bills concerning access charges and universal service fees. It would be helpful if the FCC delineated "safe harbor" language that carriers could periodically include on bills or bill inserts to inform consumers of the purpose of the charges. In general, carriers would not be required to use such language. However, carriers seeking to recover from end users through surcharges such as universal service fees, more than the costs they incur for such programs, should be required to explain such practices on their bills.

D. Consumer Complaint and Inquiry Information

The NYSCPB seconds the proposal supported by the local exchange carriers, NARUC and the National Consumers League that would require each telephone bill to include, in addition to the name of each service provider, a business address and toll-free telephone number for the receipt of customer inquiries. (at 33 - 34) This is essential information that would reduce consumer frustration and increase the ability of the customer to initiate pertinent action on a complaint or inquiry.

Additionally, the Commission requested comments on measures to ensure that carriers provide consumers with accurate information. (at 34) Current state laws and regulations prohibit telephone corporations from providing inaccurate or misleading information to consumers. Telephone corporations who nevertheless engage in such practices may be prosecuted.

We see no need, at this time, for any formal process to determine the extent to which telephone corporations currently provide inaccurate or misleading information to consumers. Any such process would be unnecessarily burdensome and intrusive. However, if consumer complaints or other information indicate a pattern of abuse, we would urge the FCC to take prompt action to correct such practices.

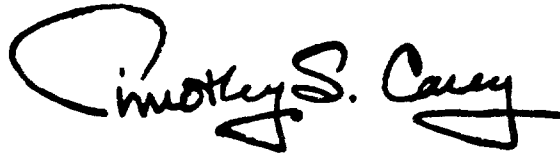


## CONCLUSION

The NYSCPB urges the FCC to:

- 1) establish guidelines, not formal regulations, to ensure that consumers receive thorough, accurate and understandable bills for all telecommunications services;
- 2) issue comprehensive guidelines to:
  - a) ensure disclosures on telephone bills similar to those provided to credit card customers through the Truth in Lending Act;
  - b) establish a "status changes" page on the telephone bill that would identify all changes in providers or services since the last bill was rendered;
  - c) ensure the all charges on telephone bills are clearly identified and explained in plain language and that the name of the service provider is clearly stated; and
  - d) include the business address and toll free telephone for each service provider with charges on the telephone bill.


Respectfully submitted,



Timothy S. Carey  
Chairman and Executive Director

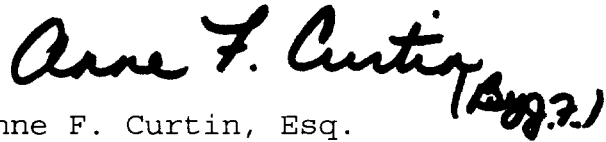


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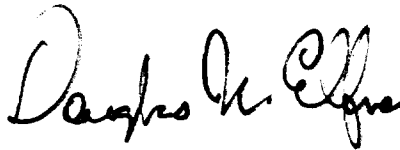
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